

Notice of Allowability

Application No.

09/710,172

Examiner

Haresh Patel

Applicant(s)

GARCEA ET AL.

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/6/2006.
2. ☒ The allowed claim(s) is/are 1,2,5-9 and 11-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 4/20/2006.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

John P. Lunsberry
See
SPR 21 54

EXAMINER'S AMENDMENT

1. Claims 1, 2, 5-9 and 11-15 are presented for examination. Claims 3, 4, 10, 16-42 are cancelled.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Himanshu S. Amin on April 10, 2006.

Amendments to the Specification

4. At page 5, line 11; please insert, "Fig. 9 is a screen of a system in accordance with an environment of the present invention".

Amendments to the Claims

5. Please cancel claims 3 and 4.
6. Please amend claims 1 and 5 as below

Claim 1 (Currently Amended): A system for gathering and aggregating operational metrics on a computer-readable media, comprising:

a gathering and aggregation component to gather operational metric data from a plurality of member machines configured to form an array of machines and to aggregate the operational metric data into a unified result set, the operational metric data indicating one or more states of

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the plurality of member machines and the unified result set indicating a state of the array of machines as if the array of machines were a singular machine; ~~and~~

an interface for providing the unified result set to a requestor as if the array of machines were a singular machine;

a metric monitoring component, the metric monitoring component monitoring member specific performance metrics and employing a time aggregation component to aggregate member specific performance metrics over time; and

the time aggregation component further aggregating member specific performance metrics data into data of larger time periods and larger resolutions.

Claim 5 (Currently Amended): The system of claim 4¹, the time aggregation component aggregating member specific performance metrics data into data of larger time periods and larger resolutions by taking one of an average, a minimum, a maximum, a last and a weighted average of performance metrics data of a first time period and first resolution to evaluate performance metric data of a consecutive time period and consecutive resolution.

Terminal Disclaimer

7. Applicant's submission of Terminal Disclaimer to overcome the nonstatutory double patenting rejections of U. S. Patents 6,789,046 and 6,748,555 (please see previous office action dated 9/26/2005) has been acknowledged.

Drawings

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8. Applicant's submission of figure 9 dated 2/6/2006 has been acknowledged.

Allowable Subject Matter

9. Claims 1, 2, 5-9 and 11-15 are allowed.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

April 20, 2006

 John Follansbee
SPE 2154